

## APPENDIX E

### USE OF FORCE

The San José Police Department (SJPD) has guidelines, policies and procedures for the officers on the subject of the use of force<sup>1</sup>, what is considered objectively reasonable force<sup>2</sup>, what and when the escalation of force<sup>3</sup> occurred, and reporting requirements of the use of force<sup>4</sup> from the officers. The officer's supervisor or command staff do investigate the force used by the officers; however, the investigations are a case by case basis only. The Office of the Independent Police Auditor (IPA) reviews the investigations of these cases and looks for patterns and trends arising from all these investigations. The objective is to look for problem areas and recommend preventive plans for the Department. Therefore, in an effort to analyze the Use of Force investigations, the Use of Force complaints are divided into two categories: Class I and Class II. Class I cases involve those complaints in which the complainant required emergency medical attention for their injuries. Class II cases include those complaints in which the complainant did not require

- 1 The San José Police Department Duty Manual, L1500, for the Use of Force is as follows: At times, officers are confronted with situations where control is required to effect arrests or protect the public safety. Attempts will be made to achieve control through advice, warnings, and persuasion. However, in situations where resistance, a threat to life, or a threat of physical force against officers or others is encountered and verbal persuasion has not been effective, is not feasible, or would appear to be ineffective, an officer may use objectively reasonable force. In the event deadly force is utilized, a thorough investigation will be conducted. All use of force will be thoroughly documented, reviewed by supervisory or command staff, and investigated when necessary.
- 2 The San José Police Department Duty Manual, L1501.1, for Objectively reasonable force is that level of force which is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who has actually used force. Objectively reasonable force is not judged with hindsight, and will take into account, where appropriate, the fact that officers must make rapid decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations. This policy guideline applies to all uses of force, including deadly force.
- 3 The San José Police Department Duty Manual, L1501.5, for Escalation of force: The general escalation of force to effect an arrest, prevent an escape, or overcome resistance is as follows: Voice; Hands; Chemical agent; Taser, electronic restraining device (ERD), electronic restraint transportation belt (ERTB), if available; Baton, canines, Yawara stick, if available; Carotid restraint; Less lethal projectiles, if available; Deadly force. Each situation is unique. The Department relies on the officer's judgment to employ an objectively reasonable level of force under each unique circumstance. Each incident in which force is used must meet the conditions specified in the Department. There is no requirement that Department members utilize each level before progressing to a higher level, as long as each level of force utilized is objectively reasonable under the circumstances.
- 4 The San José Police Department Duty Manual, L1524, for Reporting Use of other than deadly force: When using O.C. Spray, the ERD, the Taser, the baton, Yawara stick, "Carotid Restraint," canines, less lethal projectiles, or any other physical force in those instances that threaten the safety of an officer or other person, or to subdue an arrest combative individuals, the details of such use will be reported on a "Crime Report" (Form 200-2). Details will include: (1) Type of force used; (2) Reason for the use of force; (3) Extent of injury to the suspect; and (4) Other pertinent information the officer wishes to include. If the incident preceding the use of force would normally be reported on a "Crime Report," the details of the use of such force may be included in that report.

immediate medical care.

Each Use of Force complaint may allege more than one type of force and body area afflicted by the alleged use of force. However, only one count for degree of injury resulting from the alleged type of force used. The degree of injury ranged from minor to major, and included categories for “none” or “unknown” degrees of injury. For example, a citizen alleged when the officer affect an arrest, the officer pushed him/her to the ground before placing on a pair of tight handcuffs. The number accounted for the type of force used would be two: one for the use of hands and one for the use of handcuffs. The body area afflicted would be the limbs for the tight handcuffs and if bruising of the shoulder occurred from the impact of the fall to the ground, the torso area would be counted also as body area afflicted by the alleged force used. The degree of injury would be minor from the descriptive word of bruising; however, if the tight handcuffs caused laceration and required medical attention, the degree of injury would be counted as moderate.

**The categories for type of force are**

- baton was used to subdue a combative suspect by striking or hitting;
- canines was used to stop a fleeing complainant by biting;
- car such as slammed by the police car on the complainant's legs, pushed against the hood the complainant's car, or threw against a truck;
- chemical agent such as maced in the face;
- gun such pointed at head or temple;
- feet such as leg sweeps or kicking the complainant;
- ground includes allegations of being pushed to the ground or being hit/slammed against the ground;
- hands were used in grabbing, pushing, pulling, or slapping the complainant;
- tight handcuffs causing pain or injury to the wrists of the complainant;
- knee such as kneed in the stomach or kneed in the back;
- object includes the officer's use of a flashlight;
- other includes the officer's use of a fence, garage door, wall, or table; and/or
- unknown because the case is an open investigation and the type of force used is unclear at the present time.

**The body area afflicted by the use of force are**

- head include hairs, eyes, nose, mouth, ears, or neck area;
- torso include the back, the stomach, the shoulder, or the hip;
- limbs include hands and legs;
- multiple body parts (MBP) are injury to the head, the torso and the limbs;
- unknown because the case is an open investigation and the body area afflicted by the use of force is unclear at the present time.

**The degree of injury from the type of force used are**

- Minor injury included the description of minor bruises, scrapes, or cuts from being grabbed, pushed, pulled, or slapped.
- Moderate injury generally resulted from the use of chemical agent, canine and tight handcuffs in cases where the following descriptive words were used to describe the injury: laceration, swelling, minor stitching, etc..
- Major injury required medical attention usually arising from the use of deadly force breaking or fracturing body parts or killing the complainant, or the repeated use of baton causing serious external or internal injuries.
- The category of **none** for the degree of injury is generally no visible injury detected.
- The degree of the force alleged is **unknown** because the case is an open investigation and the degree of injury is unclear at the present time.